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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 95-14

In the Matter of)

Assessment and Collection)
of Regulatory Fees for)
Fiscal Year 1995)

MD Docket No. 95-3

NOTICE OF PROPOSED RULEMAKING

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I. Introduction

1. By this Notice of Proposed Rulemaking, the Commission begins a proceeding to revise its Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress, pursuant to section 9 of the Communications Act, has required it to collect for Fiscal Year 1995 (FY 1995). See 47 U.S.C. § 159 (b)(2). The current Schedule is set forth in sections 1.1152 through 1.1155 of the Commission's rules. 47 C.F.R. §§ 1.1152-1.1155.

2. We are proposing adjustments to the Schedule in order to recover \$116,400,000 in costs, consistent with the amount that Congress has appropriated for our enforcement, policy and rulemaking and international activities and user information services for FY 1995.¹ 47 U.S.C. § 159(a). In addition, we propose to amend the Schedule to assess regulatory fees from licensees of services not now included in the Schedule and to revise our method of assessing fees for certain services currently in the Schedule. 47 U.S.C. §§ 159(b)(1)(A), (b)(3). Further, we propose to amend the format of the Schedule so that its fee categories reflect changes in the Commission's new organizational structure.² 47 U.S.C. § 159(b)(3). Finally, we propose to adjust the threshold amounts for eligibility for installment payments and to amend our procedures governing installment payments. 47 U.S.C. § 159(f)(1).

3. In many instances, the regulatory fees that we are proposing for FY 1995 are significantly higher than the fees that we assessed under the statutory fee schedule to recover our regulatory costs for FY 1994. See 47 U.S.C. 159(g); see also Implementation of Section 9 of the Communications Act (FY 1994 Order), 9 FCC Rcd 5333 (1994). These revisions result, in large part, from increases in the amounts that Congress has

¹ See Public Law 103-317, 108 Stat. 1724 at 1737-38 (Approved August 26, 1994).

² Specifically, we propose to add to the Schedule a Wireless Radio Services fee category and an International Services fee category. Concurrently, we propose to delete the Private Radio Service fee category since we have abolished the Private Radio Bureau. Also, we propose to amend the Common Carrier Service fee category and the Mass Media Service fee category because certain services formerly subject to regulation by the Common Carrier Bureau and the Mass Media Bureau are now regulated by the Wireless Radio Bureau and the International Bureau and are, thus, properly within the scope of the Wireless Radio and International Service fee categories. Finally, we propose to add the Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) to the Mass Media Service fee category, and delete them from the Common Carrier Service fee category, since these services are now regulated by the Mass Media Bureau.

appropriated for Commission activities whose costs must be recovered through regulatory fees. As noted, the amount appropriated and to be recovered through regulatory fees is \$116,400,000, which is 93 percent more than the \$60,400,000 that the Commission was required to recover through regulatory fees in FY 1994. The impact of this increase is, however, offset to some extent by revenues from services that we propose to add to the Schedule and by increases in the number of payment units, e.g., subscribers, in certain other services.³ Appendix B sets forth our proposed Schedule of Regulatory Fees for FY 1995.

II. Background

4. Section 9(a) of the Act authorizes the Commission to assess and collect annual regulatory fees to recover the costs, as determined annually by Congress, that it incurs in carrying out enforcement, policy and rulemaking, international activities, and user information services. 47 U.S.C. 159(a). In our FY 1994 Order, we set forth the regulatory fee schedule for FY 1994 and prescribed rules to govern payment of the fees, as required by Congress.⁴ 47 U.S.C. § 159(f)(1).

5. For FY 1994, we adopted the Schedule of Regulatory Fees that Congress enacted in section 9(g) of the Act, and required regulatory fee payments from licensees and other regulatees operating in the Private Radio, Mass Media, Common Carrier and Cable Television services. We concluded that Congress did not intend for us to modify section 9(g)'s Schedule of Regulatory Fees for FY 1994, and, thus, declined to amend the statutory fee schedule in any way.⁵ See FY 1994 Order at para. 12.

6. For fiscal years after FY 1994, however, sections 9(b)(2) and (3) provide for annual "Mandatory Adjustments" and "Permitted

³ Payment units represent the number by which a payor must multiply the fee amount for a particular service in order to calculate its total fee due for the service. For example, "subscribers" is the payment unit applicable to cable television fees. The number of subscribers is multiplied by the cable system fee amount to determine the system's total fee liability.

⁴ See 47 C.F.R. §§ 1.1151 through 1.1166.

⁵ In the FY 1994 Order, we adopted rules to implement the collection of regulatory fees, including payment procedures, specific exemptions from the payment of regulatory fees, procedures for requesting waivers, reductions and deferments of fee payments, and penalties for late payment or non-payment of the fees. We shall in the near future address petitions for reconsideration of the FY 1994 Order and consider whether to make amendments to our implementing rules.

Amendments" to the Schedule of Regulatory Fees. In making section 9(b)(2)'s mandatory adjustments, we are first to consider the amount we are to collect as set forth in our Appropriations Act. 47 U.S.C. §§ 159(b)(2), (b)(1)(B). Second, we are to identify the number of Full Time Equivalent (FTE) employees allocated to our enforcement, policy and rulemaking, user information and international activities.⁶ 47 U.S.C. § 159(b)(1)(A). 159(b)(1)(A). Third, we are to determine the amount to be recovered from each fee category, e.g., Common Carrier, by proportionately increasing or decreasing the revenue requirement of each fee category relative to the ratio of FTEs in each category to the total number of FTEs allocated to our regulatory activities. 47 U.S.C. § 159(b)(2). The resulting fee category share of the total amount to be recovered is then prorated among each service within the fee category to determine the cost allocation applicable to each service. Finally, the prorated cost allocation is divided by the number of estimated payment units, e.g., subscribers, for each service within the category in order to determine service fees. 47 U.S.C. § (b)(2)(A).

7. In addition, section 9(b)(3), relating to "Permitted Amendments" to the Schedule, provides that, if we find it necessary, we shall amend the Schedule of Regulatory Fees, as provided in section 9(b)(1)(A) to, inter alia, reflect the benefits of our regulation to the payors of the fees by considering their service areas, the nature of their service, and other factors that we determine are necessary in the public interest. 47 U.S.C. §§ 159(b)(3), (b)(1)(A). In making these amendments, we "shall add, delete, or reclassify services in the Schedule to reflect additions, deletions or changes in the nature of its services." 47 U.S.C. § 159(b)(3). Finally, we are required to notify Congress of any permitted amendments 90 days before those amendments go into effect. 47 U.S.C. § 159(b)(4)(B).

III. Discussion

A. Proposed FY 1995 Regulatory Fees

8. As noted above, Congress has required the recovery of \$116,400,000 for FY 1995 through the collection of regulatory fees representing the costs applicable to our enforcement, policy and rulemaking, international activities, and our user information services. 47 § U.S.C. 159(a).

⁶ Full Time Equivalent (FTE) employment is the total number of regular straight-time hours (i.e., not including overtime or holiday hours) worked by employees divided by the number of compensable hours applicable to each fiscal year. See Office of Management and Budget Circular A-11, section 13.1, Definitions relating to employment.

9. In adjusting our regulatory fees pursuant to section 9(b)(2)'s provisions for "Mandatory Adjustments", we first distributed our directly assigned FY 1995 FTE's among our various regulatory activities. We then allocated additional FTEs supporting the regulatory fee activities to the Private Radio, Mass Media, Common Carrier, and Cable Services Bureaus.⁷ Appendix C contains a more detailed description of our allocation of FTEs by activity. The resulting allocation of FTEs is as follows:

	FTEs	Percentage Ratio
Private Radio	103	7.3
Mass Media	253	18.0
Common Carrier	689	49.0
Cable Services	<u>361</u>	<u>25.7</u>
Total	1,406	100.0

10. Next, we allocated our \$116,400,000 revenue requirement to the Private Radio, Mass Media, Common Carrier, and Cable Services activities, based on the FTE percentage ratios shown above. For example, to derive the amount to be recovered from cable services, we calculated that the 25.7 percent of total FTEs representing the 361 FTEs assigned to the cable services activity resulted in \$29,824,911 to be recovered through the collection of cable services fees.⁸ The resulting allocation of costs by regulatory fee category was as follows:

Private Radio	\$ 8.5 million
Mass Media	20.9 million
Common Carrier	57.0 million
Cable Services	29.9 million

11. After determining the cost allocation, we estimated FY 1995 payee units for the individual services within each fee category.

⁷ The FTEs attributed to Private Radio, Mass Media, Common Carrier, and Cable services activities are primarily performed within those Bureaus. In addition, the Compliance and Information Bureau (CIB), formerly the Field Operations Bureau, the Office of Engineering and Technology (OET) and the Office of Managing Director (OMD) perform activities supporting the Bureaus. FTEs assigned to CIB, OET and some sections of OMD supporting the regulatory activities of the Bureaus were attributed to the Bureaus' activities in developing the total FTEs allocated to the activities whose costs are to be recovered through regulatory fees.

⁸ We have rounded all percentages to the nearest one-tenth of a percent.

For example, we estimated that there are approximately 57,000,000 payment units for cable systems, i.e., cable subscribers. These estimates are based upon information provided by Commission program managers and supplemented by information contained in actual licensee data bases maintained by the Commission, information provided by industry groups or contained in trade publications, and actual data from FY 1994 regulatory fee collections. See Appendices D through G.

12. Next, in order to make the proportionate changes in the statutory schedule of fees required by section 9(b)(2), we compared our FY 1995 revenue requirement in each fee category, e.g., Cable Services, with the total amount that would be collected from all of the services within each category under the FY 1994 fee schedule. For example, we estimated that approximately \$21.5 million or \$8.4 million less than its FY 1995 revenue requirement, would be collected from cable system payors based upon our FY 1994 fees. We pro-rated the difference in these amounts to the individual services, e.g., cable systems were allocated \$29.9 million to be recovered, and then divided the revenue requirement for each individual service by its estimated number of payee units to derive our "Mandatory Adjustments" to the fee schedule.

13. Following our calculation of the "Mandatory Adjustments" to the fee schedule, we reviewed each service and its associated fee payment to determine if the nature of a service or the public interest warranted a fee adjustment pursuant to section 9(b)(3)'s requirements for "Permitted Amendments." Pursuant to our authority to make permitted amendments to the fees, we are proposing to revise our method for calculating fees for AM and FM radio stations, public mobile service, including cellular service providers, competitive access providers (CAPs), and small earth station antennas. Additionally, we are proposing a separate fee for satellite television stations to distinguish those stations from full service television stations and we are proposing to add a fee requirement for licensees of FM translator and booster stations. After making these proposed permitted amendments, we propose to revise the remaining fees within the affected service's category in order to take into account the impact of the fee modification upon other services within the category. Finally, we propose to combine certain services within a fee category having analogous fee amounts, such as public mobile and cellular licenses, in order to reduce the number of separate service categories and to simplify the overall schedule of fees.⁹

⁹ We have not proposed regulatory fees for the Personal Communications Service (PCS), Commercial Mobile Radio Service (CMRS), Low Earth Orbital (LEO) Satellite Service and the Direct Broadcasting Satellite (DBS) Service because no facilities were authorized on our proposed date for calculating fees, October 1,

14. In the following paragraphs, we describe our mandatory adjustments and proposed permitted amendments to the Schedule of Regulatory Fees on a service-by-service basis. The Commission proposes to retain, for fee determination purposes, the fee classifications (i.e., Private Radio, Common Carrier, Cable Services and Mass Media) contained in 47 U.S.C. Section 159. Although we believe that we have authority to change the classifications to align them more closely with our current organizational structure, we want to minimize any adverse impacts to the schedule brought about solely by such a classification change. Although we have developed the fee amounts for FY 1995 based upon the service categories in the statutory fee schedule, in order to assist interested parties in locating particular fees, we have formatted the FY 1995 Schedule of Fees to reflect our new organizational structure. See Appendix B. With the exception of annual fees in the amount of \$5.00 or less, individual fee amounts have been rounded to the nearest \$5 in the case of fees under \$1,000 or to the nearest \$25 in the case of fees of \$1,000 or more in accordance with section 9(b)(2). Appendices C through G describe the method in which FTEs were assigned to the major service categories and the development of the fees within each major service category.

1. Private Radio Services

15. Regulatory fees for services in the Private Radio category are located in the Wireless Radio category of the proposed fee schedule. We have developed our FY 1995 regulatory fees for Private Radio services by making mandatory adjustments to their statutory fees that take into account the quality of frequency allocated to those services. See Appendix D. As a result, we are proposing to continue to assess two levels of regulatory fees for these services, exclusive use services and shared use services, on the basis of the quality of the communications channel provided to the licensee. Our action here is consistent with section 9's directive that fees take into account the benefits provided to the payee of the fees and with the policy reflected in the statutory schedule, which provides for higher fee payments for exclusive use services within the Private Radio category of services. See 47 U.S.C. 159(b)(1)(A), (g). Further, it is consistent with the statutory fee schedule's formulation of fees for exclusive and shared services.

16. We are proposing no change to the rules for calculating fee payments and submitting regulatory fee payments for private radio

1994, to operate in these services or such authorizations are so recent that negligible portion of FTEs are assigned to these services other than for application processing.

services. See FY 1994 Order, Appendix B at paras. 2-12. Rather, due to the relatively small regulatory fees generally assessed for these services, we propose to continue to require applicants for new, reinstatement and renewal licenses in these services to submit the entire regulatory fee for the full term of their requested license at the time they file their license applications.¹⁰ See 47 U.S.C. 159(f)(1). Applicants for modification or assignment of an existing authorization will not be required to submit a regulatory fee. However, the expiration date of these authorizations will reflect only the unexpired term of the underlying license rather than a new license term.

a. Exclusive Use

17. Land Mobile Services, set forth in the FY 1995 regulatory fee schedule within the wireless radio service category, include those authorized under Part 90 of the Commission's Rules to provide limited access wireless radio service that allows high quality voice or digital communications between vehicles or to fixed stations to further the business activities of the licensee. These Services, using the 220-222 MHz band and frequencies at 470 MHz and above, may be offered on a private carrier basis in the Specialized Mobile Radio Services (SMRS). Our FY 1995 cost allocation to the Land Mobile Services fee category is \$462,455, resulting from the mandatory adjustment of its FY 1994 revenue requirement under the statutory fee schedule. Payment units for Land Mobile Services are estimated to be 13,213 licenses. Dividing the cost allocation to the Land Mobile Service fee category by its payment units and its license term of five years results in an annual fee of \$7 per license.¹¹ See Appendix D. Thus, we are proposing that Land Mobile licensees be subject to a \$7 annual regulatory fee per license, payable for an entire five or ten year license term at the time of application for a new, renewal or reinstatement license. The total regulatory fee due would be either \$35 for a license with a five year term or \$70 for a license with a 10 year term. We are proposing no change to the rules for calculating and submitting regulatory fees by Land Mobile licensees. See FY 1994 Order, Appendix B at para. 4.

18. Microwave Services, set forth in the FY 1995 fee schedule

¹⁰ In the event that the subject application is not granted, the entire regulatory fee submitted will be returned upon request of the payor of the fee. See 47 C.F.R. § 1.1159(a)(2)(iii).

¹¹ Although this fee category includes licenses with ten year terms, the estimated volume of ten year license applications in FY 1995 is less than one tenth of one percent and, therefore, is statistically insignificant.

within the wireless radio service category, include private microwave systems and private carrier systems authorized under Part 94 of the Commission's Rules to provide telecommunications services between fixed points on a high quality channel of communications. Microwave systems are often used to relay data and to control railroad, pipeline and utility equipment. Our FY 1995 cost allocation to Microwave Services is \$225,400, resulting from the mandatory adjustment to its FY 1994 revenue requirement under the statutory fee schedule. Payment units for Microwave Services are estimated to be 6,440 licenses. Dividing the revenue requirement of Microwave Services by its payment units and license term of five years results in an annual fee of \$7 per license. See Appendix D. Thus, we are proposing that microwave licensees be subject to a \$7 annual regulatory fee per license, payable for an entire five year license term at the time of application for a new, reinstatement or renewal license. The total regulatory fee due would be \$35 for the five year license term. We are proposing no change to the rules for calculating and submitting regulatory fee payments by Microwave Services. See FY 1994 Order, Appendix B at para. 5.

19. Interactive Video Data Service (IVDS), set forth in the FY 1995 fee schedule within the wireless radio service category, is a two-way point-to-multi-point radio service allocated high quality channels of communications and authorized under Part 95 of the Commission's Rules. IVDS provides information, products and services, and also the capability to obtain responses from subscribers in a specific service area. IVDS is offered on a private carrier basis. Our FY 1995 revenue requirement attributable to IVDS is \$50,750, resulting from the mandatory adjustment to its FY 1994 revenue requirement under the statutory fee schedule. Payment units for IVDS are estimated at 1,450 licenses. Dividing the revenue requirement of IVDS by its payment units and license term of five years results in an annual fee of \$7 per license. See Appendix D. We are proposing that IVDS licensees be subject to a \$7 annual regulatory fee per license, payable for an entire five year license term at the time of application for a new, reinstatement or renewal license. The total regulatory fee due would be \$35 for the five year term of the license. We are proposing no change to the rules for calculating and submitting regulatory fee payments for IVDS. See FY 1994 Order, Appendix B at para. 6.

b. Shared Use Services

20. Licensees in the following services, set forth in the FY 1995 fee schedule within the wireless radio service category, generally operate on shared frequencies.

21. Marine (Ship) Service is a shipboard radio service authorized under Part 80 of the Commission's Rules to provide

telecommunications between watercraft or between watercraft and shore-based stations. Radio installations are required by domestic and international law for large passenger or cargo vessels. Radio equipment may be voluntarily installed on smaller vessels, such as recreational boats. Our FY 1995 cost allocation to the Marine (Ship) Service fee category is \$5,070,420, resulting from the mandatory adjustment to its FY 1994 revenue requirement under the statutory fee schedule. Payment units for Marine (Ship) Service are estimated to be 169,014 stations. Dividing the revenue requirement of the Marine (Ship) Service by its payment units and license term of ten years results in an annual fee of \$3 per station. See Appendix D. Thus, we are proposing that marine (ship) station licensees be subject to a \$3 annual regulatory fee per station, payable for an entire ten year license term at the time of application for a new, reinstatement or renewal license. The total regulatory fee due would be \$30 for the ten year license term. We are proposing no change to the rules for calculating and submitting regulatory fee payments by the Marine (Ship) Service licensees. See FY 1994 Order, Appendix B at para. 9.

22. Marine (Coast) Service, set forth in the FY 1995 fee schedule within the wireless radio service category, includes land-based stations in the maritime services, authorized under Part 80 of our rules, to provide communications services to ships and other watercraft in coastal and inland waterways. Our FY 1995 cost allocation to the Marine (Coast) Services is \$41,955, resulting from the mandatory adjustment of its FY 1994 revenue requirement under the statutory fee schedule. Payment units for the Marine (Coast) Service are estimated to be 2,797 licenses. Dividing the revenue requirement of the marine (Coast) Service by its payment units and license term of five years results in an annual fee of \$3 per license. See Appendix D. Thus, we are proposing that these licensees be subject to a \$3 annual regulatory fee per call sign, payable for the entire five year license term at the time of application for a new, reinstatement or renewal license. The total regulatory fee due would be \$15 per call sign for the five year license term. We are proposing no change to the rules for calculating and submitting regulatory fee payments by the Marine (Coast) Service. See FY 1994 Order, Appendix B at para. 9.

23. Private Land Mobile (Other) Services, set forth in the FY 1995 fee schedule within the wireless radio service category, includes land mobile radio services operating under Parts 90 and 95 of the Commissions Rules. Services in this category provide one or two way communications between vehicles, persons or to fixed stations on a shared basis and include radiolocation services, private carrier paging services, industrial radio services and land transportation radio services. Our FY 1995 cost allocation for Private Land Mobile (Other) Services is \$1,396,275, resulting from the mandatory adjustment to its FY

1994 revenue requirement under the statutory fee schedule. Payment units for Private Land Mobile (Other) Services are estimated to be 93,085 licenses. Dividing the revenue requirement of the Services by their payment units and license term of five years results in an annual fee of \$3 per license. See Appendix D. Therefore, we are proposing that licensees of services in this category be subject to a \$3 annual regulatory fee per call sign, payable for an entire five year license term at the time of application for a new, reinstatement or renewal license. The total regulatory fee due would be \$15 for the five year license term. We are proposing no change to the rules for calculating and submitting regulatory fee payments by Private Land Mobile Service licensees. See FY 1994 Order, Appendix B at para. 11.

24. Aviation (Aircraft) Service, set forth in the FY 1995 fee schedule within the wireless radio service category, includes stations authorized to provide communications between aircraft and from aircraft to ground stations and includes frequencies used to communicate with air traffic control facilities pursuant to part 87 of our rules. Our FY 1995 revenue requirement attributable to the Aviation (Aircraft) Service is \$1,130,430, resulting from the mandatory adjustment to its FY 1994 revenue requirement under the statutory fee schedule. Payment units for the Aviation (Aircraft) Service are estimated to be 37,681 stations. Dividing the revenue requirement of the Aviation (Aircraft) Service by its payment units and license term of ten years results in an annual fee of \$3 per station. See Appendix D. Thus, we are proposing that licensees of aircraft stations be subject to a \$3 annual regulatory fee per station, payable for the entire ten year license term at the time of application for a new, reinstatement or renewal license. The total regulatory fee due would be \$30 per station for the ten year license term. We are proposing no change to the rules for calculating and submitting regulatory fee payments by Aviation (Aircraft) Service licensees. See FY 1994 Order, Appendix B at para. 8.

25. Aviation (Ground) Service, set forth in the FY 1995 fee schedule within the wireless radio service category, includes stations authorized to provide ground-based communications to aircraft for weather or landing information, or for logistical support pursuant to Part 87 of the rules. Our FY 1995 revenue requirement attributable to the Aviation (Ground) Service is \$39,900, resulting from the mandatory fee adjustment to its revenue requirement under the statutory fee schedule. Payment units for the Aviation (Ground) Service are estimated to be 2,660 licenses. Dividing the Service's revenue requirement by its payment units and licenses term five years results in an annual fee of \$3 per license. See Appendix D. Thus, we are proposing that these licensees of aviation ground stations be subject to a \$3 annual regulatory fee per license, payable for the entire five year license term at the time of application for a new,

reinstatement or renewal license. The total regulatory fee would be \$15 per call sign for the five year license term. We are proposing no change to the rules for calculating and submitting regulatory fee payments by Aviation (Ground) Service licensees. See FY 1994 Order, Appendix B at para. 8.

26. General Mobile Radio Service (GMRS), set forth in the FY 1995 fee schedule within the wireless radio service category, includes land mobile radio licensees providing personal and limited business communications between vehicles or to fixed stations for short-range, two-way communications pursuant to Part 95 of our rules. Our FY 1995 cost allocation for GMRS is \$41,775, resulting from the mandatory adjustment to its FY 1994 revenue requirement. Payment units for GMRS are estimated to be 2,785 licenses. Dividing GMRS' revenue requirement by its payment units and license term of five years results in an annual fee of \$3 per license. See Appendix D. Thus, we are proposing that (GMRS) licensees be subject to a \$3 annual regulatory fee per license, payable for an entire five year license term at the time of application for a new, reinstatement or renewal license. The total regulatory fee due would be \$15 per license for the five year license term. We are proposing no change to the rules for calculation and submission of regulatory fee by GMRS licensees. See FY 1994 Order, Appendix B at para. 10.

c. Amateur Radio Vanity Call-Signs

27. Amateur Vanity Call-Signs, set forth in the FY 1995 fee schedule within the wireless radio service category, covers voluntary requests for specific call-signs in the Amateur Radio Service. We have not yet concluded our rulemaking proceeding concerning authorizing vanity call-signs. See Notice of Proposed Rulemaking, 9 FCC Rcd 105 (1993). Nevertheless, we are including a fee for vanity call signs since we expect to conclude this proceeding during FY 1995. Our FY 1995 cost allocation to Amateur Vanity Call-Signs is \$60,000, resulting from the mandatory adjustment to its FY 1994 revenue requirement under the statutory fee schedule. See Appendix D. Payment units for Amateur Vanity Call-Signs are estimated to be 2,000 licenses. Dividing this service category's cost allocation by its estimated payment units and license term of ten years results in a fee of \$3 per year per license. Thus, we are proposing that applicants for amateur vanity call-signs be subject to a \$3 annual regulatory fee per call-sign, payable for an entire ten year license term at the time of application for a vanity call sign. The total regulatory fee due would be \$30 per license for the ten

year license term.¹² We are proposing no change to the rules for calculating and submitting regulatory fees for amateur vanity call-sign licensees. See FY 1994 Order, Appendix B at para. 12.

2. Mass Media

28. The regulatory fees for the Mass Media fee category apply to broadcast licensees and permittees.

a. Commercial AM and FM Radio

29. These categories include licensed commercial AM (Classes A, B, C, and D) and FM (Classes A, B, B1, C, C1, C2, and C3) radio stations operating under Part 73 of the Commission's rules. In developing our FY 1995 individual fee amounts for AM and FM stations, we determined that the public interest required that we retain the operational class distinctions among AM and FM stations that Congress established in its statutory fee schedule. Also, as a permissive amendment and consistent with petitions for rulemaking filed by Teddy Bear Communications, Inc. and La Paz Broadcasting, Inc., we included a further distinction in order to recognize that the population density of a station's geographic location was also a public interest factor warranting recognition in the fee schedule. After due consideration, we decided that stations located in Arbitron radio markets vis-a-vis those not located in these markets provided a logical distinction for allocating the fee burden.¹³ We quantified this distinction by adopting a fee ratio between the Arbitron and non-Arbitron markets similar to the ratio of the fee requirement the statutory fee schedule established for the larger television station markets and the schedule's "remaining markets."¹⁴ Thus, for AM

¹² Section 9(h) exempts "amateur radio operator licenses under part 97 of the Commission's regulations (47 C.F.R. Part 97)" from the requirement. However, section 9(g)'s fee schedule explicitly includes "Amateur vanity call signs" as a category subject to the payment of a regulatory fee.

¹³ Arbitron has identified 261 Metro Survey Areas (MSAs) that range in population from 14,033,500 (Market 1) to 47,100 persons (Market 261). Stations operating outside Arbitron's MSAs are considered to be located in "non-arbitron markets" serving more rural geographic areas. See Arbitron rankings, Broadcasting & Cable Yearbook, compiled annually by R. R. Bowker, a Reed Reference Publishing Company. For the formulation of FY 1995 AM and FM fees, we have used the 1994 edition of the Yearbook since it provides the most recently published market data.

¹⁴ See Appendix for a more detailed explanation of the development of our fees for AM and FM radio stations.

and FM stations we exercised our authority to make permitted amendments to the fee schedule in order to lower the fees for stations with relatively small coverage areas and daytime only operations and for stations operating in rural areas. The following are our proposed regulatory fees for AM and FM stations.

AM Radio

Class A (Arbitron Market)	\$1,525
Class A (Non-Arbitron Market)	565
Class B (Arbitron Market)	850
Class B (Non-Arbitron Market)	315
Class C (Arbitron Market)	340
Class C (Non-Arbitron Market)	125
Class D (Arbitron Market)	425
Class D (Non-Arbitron Market)	155

FM Radio

Classes C, C1, C2, B (Arbitron Market)	\$1,525
Classes C, C1, C2, B (Non-Arbitron Market)	565
Classes A, B1, C3 (Arbitron Market)	1,025
Classes A, B1, C3 (Non-Arbitron Market)	375

We are proposing no change to the rules for calculating and submitting regulatory fees by AM and FM radio station licensees. See FY 1994 Report, Appendix B at paras. 14-17 and 19.

b. Construction Permits - Commercial AM Radio

30. This category includes holders of permits to construct new AM stations. The FY 1995 cost allocation for commercial AM construction permit fee category is \$9,480, resulting from the mandatory adjustment to its FY 1994 revenue requirement under the statutory fee schedule. Payment units for the category are estimated to be 79 AM construction permits. Dividing the revenue requirement for AM construction permits by estimated payment units results in a regulatory fee of \$120 per construction permit. See Appendix E. Thus, for FY 1995, we are proposing to assess permittees \$120 for each permit held. Upon issuance of an operating license, this fee would no longer be applicable and licensees would be required to pay the applicable fee for the designated class/market of the station. We are proposing no change in the rules for calculating and submitting the regulatory fee by AM construction permittees. See FY 1994 Order, Appendix B at para. 18.

c. Construction Permits - Commercial FM Radio.

31. This category includes holders of permits to construct new commercial FM stations. The FY 1995 cost allocation for commercial FM radio construction permits is \$418,285, resulting from the mandatory adjustment to the category's FY 1994 revenue

requirement under the statutory fee schedule. Payment units are estimated to be 703 FM construction permits. Dividing the revenue requirement for FM construction permits by estimated payment units results in a regulatory fee \$595 per permit. See Appendix E. Thus, for FY 1995, we are proposing to assess permittees \$595 for each permit held. Upon issuance of an operating license, this fee would no longer be applicable. Instead, licensees would pay a regulatory fee based upon the designated class/market of the station. We are proposing no change in the rules for calculating and submitting regulatory fees by FM construction permittees. See FY 1994 Order, Appendix B at para. 20.

d. Commercial Television Stations.

32. This category includes licensed commercial VHF and UHF television stations covered under Part 73 of the Commissions rules, except commonly owned television satellite stations, addressed separately below. We are proposing to assess commercial television stations annual fees based on the stations' market rankings as published by Warren Publishing in the 1994 Edition of the Television and Cable Factbook (No. 62). The FY 1995 revenue requirements for the different categories of VHF and UHF commercial television stations are shown in Appendix E, including both an amount resulting from the services mandatory adjustment and an additional amount required to offset the reduced fee for satellite television stations, described below, pursuant to our authority to make permitted amendments to the fees. Payment units for each service category with the commercial television fee category are shown in Appendix E. Dividing the revenue requirements for each commercial television station category by the corresponding estimate of payment units results in the following proposed fees to be assessed on stations in each ADI market grouping:

VHF Markets 1-10.....	\$21,450
VHF Markets 11-25.....	19,075
VHF Markets 26-50.....	14,300
VHF Markets 51-100.....	9,525
VHF Remaining Markets.....	5,950
UHF Markets 1-10.....	\$17,150
UHF Markets 11-25.....	15,250
UHF Markets 26-50.....	11,450
UHF Markets 51-100.....	7,625
UHF Remaining Markets.....	4,775

See Appendix E. We are proposing no change to the rules for calculating and submitting regulatory fee payments by television stations licensees. See FY 1994 Order, Appendix B at para. 21-24.

e. Commercial Television Satellite Stations

33. Pursuant to our authority to make permissive amendments to our regulatory fees, we are also proposing that commonly owned television satellite stations in any market (authorized pursuant to Note 5 of Section 73.3555 of the Commission's Rules) that retransmit programming of the primary station be assessed a fee of \$595 annually, based upon the \$500 fee for FY 1994 passed by the House of Representatives for satellite stations. While not legally binding, the \$500 base fee was determined to be appropriate for licensees of television satellite stations in our FY 1994 authorization bill passed in the House of Representatives. See H.R. 4522. In addition, we believe that this fee amount takes into account the public interest factors reflected in comments filed in the proceeding to adopt the FY 1994 Schedule of Regulatory Fees. See 447 U.S.C. § 159(b)(3). In developing the FY 1995 fee for television satellite stations, we used the \$500 fee that the House enacted for FY 1994 for television satellite stations to derive a FY 1995 fee requirement of \$595 per television satellite station resulting from a "simulated" FY 1994 revenue requirement divided by the estimated payment units of 101 satellite television station licenses. Therefore, we propose to exercise our authority to make permitted amendments to the fees to establish the satellite television fee at \$595 per license. We expect that this fee will result in approximately \$60,095 of revenues. See Appendix E. We caution that only those stations designated as satellite television stations in the 1994 edition of the Television and Cable Factbook (No. 62) are eligible to submit the fee applicable to satellite television stations. All other television licensees are subject to the regulatory fee payment required for their class of station and market.¹⁵

f. Construction Permits - Commercial VHF Television Stations

34. This category includes holders of permits to construct new commercial VHF television stations. For FY 1995, the cost allocation for this service category is \$52,525, resulting from the fee category's FY 1994 revenue requirement under the statutory fee schedule. Payment units for VHF construction permits are estimated to be 11 permits. Dividing the revenue requirement for VHF construction permits by its estimated payment

¹⁵ We acknowledge that the Commission has initiated an NPRM seeking comment on whether satellite stations should continue to be exempt from the Commission's national television ownership restrictions. Be advised that the Commission's decision to assess a regulatory fee for satellite stations that is less than the amount for commercial television stations should not be taken as a signal that any determination has been made with regard to this outstanding proceeding.

units results in a fee of \$4,775. See Appendix E. Therefore, for FY 1995, we are proposing to assess permittees \$4,775 for each VHF construction permit held. Upon issuance of an operating license, this fee would no longer be applicable. Instead, licensees would pay a fee based upon the designated market of the station. We are proposing no change to the rules for calculating and submitting regulatory fees by VHF television station construction permittees. See FY 1994 Order, Appendix B at para. 24.

g. Construction permits - Commercial UHF Television Stations

35. This category includes holders of permits to construct new UHF television stations. For FY 1995, the cost allocation for this service category is \$554,625, resulting from the mandatory increase to its statutory fee schedule. Payment units for UHF construction permits are estimated to be 145 permits. Dividing the revenue requirement for this service category by its estimated payment units results in a fee of \$3,825 for each UHF construction permit held. Therefore, we are proposing a fee of \$3,825 per UHF television station construction permit. See Appendix E. Upon issuance of an operating license, this fee would no longer be applicable. Instead, licensees would pay a fee based upon the designated market of the station. We are proposing no change to the rules for calculating and submitting regulatory fees by UHF television station permittees. See FY 1994 Order, Appendix B at para. 25.

h. Construction Permits - Satellite Television Stations

36. We are proposing to add a new service category to the fee schedule in recognition that the holders of construction permits for UHF and VHF television satellite stations should be charged a separate, lower fee than the fee for holders of construction permits for fully operational television stations. See above, where we propose to exercise our authority to make permitted amendments to the fee schedule relating to the fee for television satellite stations. We developed the fee for television satellite construction permits by taking the average fees for VHF and UHF television stations (\$12,655) and relating it to the average fee for construction permits for VHF and UHF television stations (\$4,300). Using this relationship, (.339:1) for satellite stations results in a computed fee of \$200 for construction permits for television satellite stations (\$595 times .339). See Appendix E. An individual regulatory fee payment is to be made for each television satellite station construction permit held.

i. Low Power Television, Translator and Booster Stations.

37. This category includes Low Power UHF/VHF Television stations operating under Part 74 of the Commissions rules with a

transmitter power output limited to 0.01kw for a UHF facility and, generally, 1kw for a VHF facility. Low Power Television (LPTV) stations may retransmit the programs and signals of a TV broadcast station, originate programming, and/or operate as a subscription service. This category also includes translators and boosters operating under Part 74 which rebroadcast the signals of full service stations on a frequency different from the parent station (translators) or on the same frequency (boosters). We propose to exercise our authority to make permitted amendments to the fee schedule to include FM translator and booster stations in this fee service because we believe these facilities were inadvertently omitted from the statutory fee schedule and we are unaware of any reason not to establish a fee for these services. The stations in this category are secondary to full service stations in terms of frequency priority. The FY 1995 cost allocation for this service category is \$1,368,640, resulting from the mandatory adjustment to its FY 1994 revenue requirement under the statutory fee schedule. Payment units are estimated to be 8,554 licenses, including licenses covering FM translators. Dividing the revenue requirement for this category by its estimated payment units results in a fee of \$160 per license. See Appendix E. Thus, for FY 1995, we are proposing to assess licensees of low power television stations and licensees of both FM and TV translators and boosters an annual regulatory fee of \$160 for each license held. We are proposing no change to the rules for calculating and submitting regulatory fee payments by licensees in this service category. See FY 1994 Order, Appendix B at paras. 26-27.

j. Broadcast Auxiliary Stations.

38. This category includes licensees of remote pickup stations, aural broadcast auxiliary stations, television broadcast auxiliary stations, and low power auxiliary stations, authorized under Part 74 of the Commission's Rules. Auxiliary stations are generally associated with a particular television or radio broadcast station or cable television system. The FY 1995 cost allocation for this category is \$1,500,000, resulting from the mandatory adjustment to its FY 1994 revenue requirement under the statutory fee schedule. Payment units are estimated to be 50,000 licenses. Dividing the category's revenue requirement by its estimated payment units results in a fee of \$30 per license. See Appendix E. Thus, we are proposing that licensees of commercial auxiliary stations be assessed a \$30 annual regulatory fee for FY 1995 on a per call sign basis. We are proposing no change to the rules for calculating or submitting regulatory fee payments by licensees of facilities in this service category. See FY 1994 Report, Appendix B at para. 28.

k. International HF Broadcast (Short Wave)

39. This category covers international broadcast stations

licensed under Part 73 to operate on a frequency in the 5,950 Khz to 26,100 Khz range to provide service to the general public in foreign countries. The proposed fees for International HF Broadcast are set forth in the International Service category in the FY 1995 fee schedule. For FY 1995, the cost allocation for the category is \$4,560, resulting from the mandatory adjustment to its FY 1994 revenue requirement under the statutory fee schedule. Payment units are estimated to be 19 licenses. Dividing the category's revenue requirements by its estimated payment units results in a fee of \$240 per license. See Appendix E. Thus, for FY 1995, we are proposing to assess an annual regulatory fee of \$240 per station license. We are proposing no change to the rules for calculating and submitting fees by licensees of facilities in this service category. See FY 1994 Order, Appendix B at para. 29.

3. Cable Services

a. Cable Television Systems

40. This category includes operators of cable television systems, as that term is defined in Section 76.5 of our rules, providing or distributing programming or other services to subscribers under Part 76 of our Rules. For FY 1995, the cost allocation for cable television systems is \$29,070,000, resulting from the mandatory adjustment to the category's FY 1994 revenue requirement under the statutory fee schedule. Estimated payment units are 57,000,000 subscribers. Dividing the categories cost allocation by its estimated payment units results in a fee of \$.51 per subscriber. See Appendix F. Therefore, we are proposing a fee of \$.51 per cable television subscriber.¹⁶

41. Payments for cable systems are to be made on a per subscriber by community unit basis as of December 31, 1994 as reported on each cable systems's 1994 Annual Report of Cable Systems (FCC Form 325). As in FY 1994, cable systems should determine their subscriber numbers by calculating the number of single family dwellings, the number of individual households in multiple dwelling units, e.g., apartments, condominiums, mobile home parks, etc., paying at the basic subscriber rate, the number of bulk rate customers and the number of courtesy or fee customers. In order to determine the number of bulk rate subscribers, a system should divide its bulk rate charge by the annual subscription rate for individual households. We are proposing no change in the rules for calculating or submitting

¹⁶ Consistent with our earlier interpretation of Congressional intent, we propose to require payment of the cable system regulatory fees on a per subscriber basis rather than per 1,000 subscribers as set forth in the statutory fee schedule. See FY 1994 Order at para. 100.

regulatory fees by cable system operators. See FY 1994 Order, Appendix B at para. 31.

b. Cable Antenna Relay Service

42. This category includes cable television relay service (CARS) stations used to transmit television and related audio signals, signals of AM and FM broadcast stations and cablecasting from the point of reception to a terminal point from where the signals are distributed to the public by a cable television system. For FY 1995, the cost allocation for CARS is \$635,010, resulting from the mandatory adjustment to its FY 1994 revenue requirement based upon the statutory fee schedule. Payment units are estimated to be 2,082 licenses. Dividing the revenue requirement for CARS by its estimated payment units results in a fee of \$305 per license. See Appendix F. Thus, for FY 1995, we are proposing to assess a \$305 regulatory fee per CARS license. We are proposing no change to the rules for calculating and submitting regulatory fees by CARS licensees.

4. Common Carrier Services

a. Mobile Services

43. Public Mobile/Cellular Radio Services, set forth in the FY 1995 fee schedule within the wireless radio service category, include common carriers and others (e.g., cellular radio licensees) offering, under Parts 22 and 24, a wide variety of land-based or air-to-ground mobile telephone, paging or data transmission services to the public. Licensees include those using radio to provide telephone services at fixed locations, such as Basic Exchange Telecommunications Radio Services, Rural Radio and Offshore Radio. For FY 1994, we required a fee payment on a subscriber basis pursuant to the statutory requirement to charge a per subscriber fee. See 47 U.S.C. § 159(g).

44. We recognize that the statutory language permitted a licensee to submit a single per subscriber fee for an entity subscribing to its service no matter how many actual units of communication services that subscriber obtained from the licensee. Nevertheless, we believe that a more equitable payment formulation would require each licensee to submit a fee based upon the total number of telephone numbers or call signs that it provides to customers so that its fee payment would better reflect the benefit that the licensee receives from its use of frequencies of communications. Therefore, for FY 1995, we propose to exercise our authority to make permitted amendments to the fee schedule to propose that each licensee in the Public Mobile/Cellular Radio Services pay an annual regulatory fee for each mobile or cellular unit (mobile or cellular call sign or telephone number), including paging units, assigned to its customers, including resellers of its services. For FY 1995, the

service category's cost allocation is \$4,420,000, resulting from the mandatory adjustment to its FY 1994 revenue requirement under the statutory fee schedule. Payment units under our proposed formulation are estimated to be 34,000,000 subscribers. Dividing the category's cost allocation by its estimated subscribers results in a regulatory fee of \$.13 per payment unit. See Appendix G. Thus, we are proposing a fee of \$.13 per subscriber. With the exception of extending the regulatory fee to all units provided by licensees in this service category, we are proposing no change to the rules for payment of fees by licensees in the Public Mobile/Cellular Radio Services. See FY 1994 Order, Appendix B at para. 31.¹⁷

b. Fixed Radio Services

45. Domestic Public Fixed Radio Service includes stations authorized under Part 21 of the Commission's Rules to use microwave frequencies for video and data distribution within the United States. This category includes licensees in the Point-to-Point Microwave Radio Service, Local Television Transmission Radio Service, Digital Electronic Message Service, Multipoint Distribution Service (MDS), and Multichannel Multipoint Distribution Service (MMDS).¹⁸ For FY 1995, the cost allocation for the Domestic Public Fixed Radio Services is \$158,000, resulting from the mandatory adjustment to its FY 1994 revenue requirement under the statutory fee schedule. Payment units are estimated to be 1,320 licenses. Dividing the Service's cost allocation by its estimated payment units results in a fee of \$120 per call sign. See Appendix G. Therefore, we are proposing that Domestic Public Fixed Radio Service licensees be subject to a \$120 annual regulatory fee per call sign, payable on a specified date to be announced by the Commission. We are proposing no change to the rules for calculation and submission of the fee payment by licensees in the Domestic Public Fixed Radio Services. See FY 1994 Order, Appendix B at para. 37.

46. International Public Fixed Radio Service, set forth in the FY 1995 fee schedule within the International fee category, includes common carriers authorized under Part 23 of the Commission's Rules to provide radio communications between the

¹⁷ As noted above, we are proposing no regulatory fee for Personal Communications Services (PCS) and Commercial Mobile Radio Services (CMRS) for FY 1995 because no facilities were authorized for PCS and CMRS by our proposed date for calculating fees, October 1, 1994.

¹⁸ MDS and MMDS are now regulated by the Mass Media Bureau and, therefore, the regulatory fees for these services are shown within the Mass Media category in the FY 1995 fee schedule. See Appendix B.

United States and a foreign point via microwave or HF troposcatter systems, other than satellites and satellite earth stations, but not including service between the United States and Mexico and the United States and Canada using frequencies above 72 MHz. The cost allocation for the International Public Fixed Radio Service is \$4,800, resulting from the mandatory adjustment to its revenue requirement under the statutory fee schedule. Payment units for the Service are estimated to be 20 call signs. Dividing the Service's revenue requirement by its estimated payment units results in a fee of \$240 per call sign. See Appendix F. Thus, we are proposing that international public fixed radio service licensees be subject to a \$240 annual regulatory fee per call sign, payable on a specified date to be announced by the Commission. We are proposing no change to the rules for calculating and submitting fees by licensees in the International Public Fixed Radio Services. See FY 1994 Order, Appendix B at para. 38.

c. VSATs and Equivalent C-Band Antennas/Mobile Satellite Earth Stations.

47. VSATs and Equivalent C-Band Antennas includes VSAT earth stations and equivalent C-Band earth stations and antennas and earth station systems comprised of very small aperture terminals operating in the 12 and 14 GHz bands and providing a variety of communications services to other stations in the network. VSAT systems consist of a network of technically-identical small fixed-satellite earth stations which often include a larger hub station. VSAT earth stations and C-Band equivalent earth stations are authorized pursuant to Part 25 of the Commission's Rules. Mobile Satellite Earth Stations, operating pursuant to Part 25 of the rules under blanket licenses for mobile antennas (transceivers), are smaller than one meter and provide voice or data communications, including position location information for mobile platforms such as cars, buses or trucks. The 1995 cost allocation for this category is \$56,810, resulting from the category's mandatory adjustment under the FY 1994 statutory fee schedule. Payment units are estimated to be 437,000 antennas. See Appendix G. Dividing the revenue requirement by estimated payment units results in a regulatory fee for FY 1995 of \$.13 per authorized antenna. Therefore, we propose to assess licensees of VSATs an annual regulatory fee of \$.13 per authorized antenna for FY 1995. The proposed fee for this service is set forth in the International category in the FY 1995 fee schedule. See Appendix B. We are not proposing to change the rules for calculation and payment of the fee for VSATs, VSAT equivalents and mobile earth station antennas.

d. Fixed Satellite Earth Station Antennas

48. Transmit/Receive and Transmit Only Earth Stations. This category includes fixed-satellite transmit/receive and transmit

only earth station antennas, authorized or registered under Part 25 of the Commission's rules, operated by private and public carriers to provide telephone, television, data, and other forms of communications. The proposed fees for this fee category are set forth in the FY 1995 fee schedule in the International Service category. Included in this category are telemetry, tracking, and control (TT&C) earth stations and earth station uplinks.

49. In our FY 1994 Order, we adopted the statutory fee schedule's requirement that assessed a higher fee for fixed satellite earth stations antennas of 9 meters or more than for those less than 9 meters. This distinction resulted in the anomaly that antennas performing the same function were subjected to different fees, one several thousand percent higher than the other. To rectify this disparity, we propose to exercise our permitted authority to eliminate the differing fee levels for these earth stations. We are proposing that any earth station in this service category be charged a fee based upon size as measured in meters. This modification will eliminate the disparity in fees under the former schedule, but assure that smaller antennas will continue to be subject to a smaller fee requirement than larger antennas.

50. The FY 1995 cost allocation for transmit and transmit/receive earth stations is \$3,533,500, resulting from the mandatory adjustment under the FY 1994 revenue requirement for this fee category. Payment units are estimated to be 19,100 antenna meters. Dividing the cost allocation for this category by its estimated payment units results in a fee of \$185 per meter. See Appendix G. Therefore, we are proposing a regulatory fee of \$185 per meter for transmit/receive and transmit only earth stations. In determining the number of meters of an earth station, all measurements should be made to the tenth of a meter.

51. Receive only earth stations. For the reasons discussed above, we propose to eliminate the disparity in the fee requirement for receive only antennas above and below 9 meters. Thus receive only earth stations will be assessed a per meter fee, regardless of whether they are above or below 9 meters in size. The FY 1995 cost allocation for receive only earth stations is \$4,116,000, resulting from the mandatory adjustment to the fee category's revenue requirement under the statutory fee schedule. Payment units are estimated to be 34,300 antenna meters. Dividing the cost allocation for the category by its estimated payment units results in a fee of \$120 per meter. See Appendix G. Thus, we are proposing a regulatory fee of \$120 per meter for receive only earth stations. All measurements will be to the tenth of a meter.

e. Space Stations (Geosynchronous)

52. Geosynchronous space stations, set forth in the FY 1995 fee schedule within the International Service category, are domestic and international satellites positioned in orbit to remain approximately fixed relative to the earth. They are authorized under Part 25 of the Commission's rules to provide communications between satellites and earth stations on a common carrier and/or private carrier basis. The FY 1995 cost allocation for geosynchronous space stations is \$4,978,750, resulting from the mandatory increase in the category's FY 1994 revenue requirement under the statutory fee schedule. Payment units are estimated to be 35 operational space stations in orbit. Dividing the revenue requirement for this category by its estimated payment units results in an fee of \$142,250 per operational space station in orbit. See Appendix G. Thus, we are proposing that entities authorized to operate geosynchronous space stations in accordance with section 25.120(d) will be assessed an annual regulatory fee of \$142,250 per operational station in orbit. Payment is required for any geosynchronous satellite that has been launched and tested and is authorized to provide service. We are proposing no change to the rules for calculating and submitting regulatory fee payments by licensees of geosynchronous space stations. See FY 1994 Order, Appendix B at para. 35.

f. International Bearer Circuits

53. Regulatory fees for international bearer circuits are computed "per 100 active 64 Kbps circuits or equivalent." International bearer circuits are set forth in the International Service category in the FY 1995 fee schedule. The proposed fee is to be paid by the facilities-based common carrier activating the circuit in any transmission facility for the provision of service to an end user or resale carrier. However, we propose to modify our requirements for payment of the fee for bearer circuits by private submarine cable operators to require that they pay fees for circuits sold on an indefeasible right of use (IRU) basis or leased to any customer other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. Compare FY 1994 Order at 5367. The fee is based upon active 64 Kbps circuits, or equivalent circuits. Under this formulation, 64 Kbps circuits or their equivalent will be assessed a fee. Equivalent circuits include the 64 Kbps circuit equivalent of larger bit stream circuits. For example, the 64 Kbps circuit equivalent of a 2.048 Mbps circuit is 30 64 Kbps circuits. Analog circuits such as 3 and 4 KHz circuits used for international service are also included as 64 Kbps circuits. However, circuits derived from 64 Kbps circuits by the use of digital circuit multiplication systems are not equivalent 64 Kbps circuits. Such circuits are not subject to fees. Only the 64 Kbps circuit from which they have been derived will be subject to payment of a fee. The FY